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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
10

11 ALEX VILLANUEVA,

12 Plaintiff,

13 v.

14 COUNTY OF LOS ANGELES,
COUNTY OF LOS ANGELES
15 SHERIFF'S DEPARTMENT, LOS
ANGELES COUNTY BOARD OF
16 SUPERVISORS, COUNTY EQUITY
OVERSIGHT PANEL, LOS
17 ANGELES COUNTY OFFICE OF
INSPECTOR GENERAL,
18 CONSTANCE KOMOROSKI,
MERCEDES CRUZ, ROBERTA
19 YANG, LAURA LECRIVAIN,
SERGIO V. ESCOBEDO, RON
20 KOPPERUD, ROBERT G. LUNA,
MAX-GUSTAF HUNTSMAN,
21 ESTHER LIM, and DOES 1 to 100,
inclusive,

22 Defendants.
23

CASE NO. 2:24-cv-04979 SVW (JCx)

**REPLY IN SUPPORT OF
DEFENDANTS' MOTION IN
LIMINE NO. 2 TO EXCLUDE
PLAINTIFF'S DAMAGES EXPERT
SANDRA WHITE**

Date: May 26, 2025

Time: 1:30 p.m.

Crtrm.: 10A

Assigned to the Hon. Stephen V.
Wilson, Crtrm. 10A and Magistrate
Judge Jacqueline Chooljian, Crtrm. 750

Trial Date: June 3, 2025

REPLY MEMORANDUM

Plaintiff's Opposition does nothing to confront the primary issues raised in Defendants' Motion. Plaintiff simply sidesteps the issue that Ms. White's damages calculation is fundamentally flawed because she *did nothing* to determine the bonafides of the crucial assumptions underlying her analysis. Ms. White blindly followed the assumptions given to her by Plaintiff's counsel that do not have any factual basis. Plaintiff tries to brush this off as an issue for "cross examination," (Opp. at 2:24-26), but ignores the authorities cited by Defendants establishing that "an expert opinion that fails to consider the relevant facts of the case is fundamentally unsupported." *Neb. Plastics, Inc. v. Holland Colors Ams., Inc.*, 408 F.3d 410, 416 (8th Cir. 2005).

The Opposition argues that under Ninth Circuit precedent, "disputes about factual assumptions underlying expert testimony affect the weight of the testimony, not its admissibility." (Opp. at 2:24-26 (citing *Waterwatch of Oregon v. Winchester Water Control Dist.*, No. 3:20-CV-01927-IM, 2025 WL 1067620, at *5 (D. Or. Feb. 20, 2025))). The argument is, quite frankly, wrong. The Ninth Circuit in *McGlinchy v. Shell Chem. Co.*, 845 F.2d 802 (9th Cir. 1988), made it abundantly clear that an expert opinion can be excluded when it rests on "unsupported assumptions and unsound extrapolation." *Id.* at 807. This is because an expert's opinion is "not sufficiently reliable" when it rests on "ungrounded assumptions." *Junk v. Terminix Int'l Co.*, 628 F.3d 439, 444 (8th Cir. 2010).

Plaintiff relies on language from *Waterwatch of Oregon*, where the court denied a motion to exclude expert testimony over arguments that the experts' opinions rested on unsupported assumptions. 2025 WL 1067620, at *5. That case, however, involved a bench trial so the court did not have to contend with the issue of misleading a jury with unfounded expert opinions. *Id.* at *2 (noting that the *Daubert* standard of allowing expert testimony where it is "helpful" is "particularly true when, as here, the case is set for a bench trial") (citing *Daubert v. Merrell Dow*

1 *Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)).

2 *Daubert* analysis of the admissibility of expert testimony is quite different
3 when the court is the finder of fact. *See In re Salem*, 465 F.3d 767, 777 (7th Cir.
4 2006) (“[W]here the factfinder and the gatekeeper are the same, the court does not
5 err in admitting the evidence subject to the ability later to exclude it or disregard it if
6 it turns out not to meet the standard of reliability established by Rule 702.”); *see*
7 *also Deal v. Hamilton Cnty. Bd. of Educ.*, 392 F.3d 840, 852 (6th Cir. 2004)
8 (explaining that the “gatekeeper” doctrine is “largely irrelevant in the context of a
9 bench trial”). In short, *Waterwatch of Oregon* offers no support for Plaintiff
10 because the court’s analysis was based on it being a bench trial.

11 This is a jury trial. Plaintiff intends to put up an expert witness who will
12 claim that Plaintiff is entitled to millions of dollars in damages when she has never
13 even talked to Plaintiff. (*See* Dkt. 100-2 Ex. 10 (White Depo. at 40:13-41:5).) She
14 will also testify regarding “assumptions” about Plaintiff’s retirement plans despite
15 doing nothing to determine what those plans actually are. (*Id.* at 40:13-41:5.)
16 Moreover, Ms. White is going to present a damages analysis without having read a
17 single deposition in the case. This is precisely the kind of ungrounded expert
18 testimony that the Court should exclude. *McGlinchy*, 845 F.2d at 807.

19 The Motion should be granted.

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21 DATED: May 12, 2025

Respectfully Submitted,

22 MILLER BARONDESS, LLP

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24 By:



25 JASON H. TOKORO
26 Attorneys for Defendants
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